

DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
825 North Capitol Street N.E., Suite 5100
Washington D.C. 20002

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

JUARO ISATU
Respondents

Case No.: I-00-40419

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Code § 2701 *et seq.*) and Title 29, Chapter 3 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. 00-40419) served on May 11, 2001, the Government charged Respondent, Juaro Isatu, with a violation of 29 DCMR 301.1 for allegedly failing to obtain a child development facility license.¹ The Notice of Infraction alleged that the violation occurred on April 17, 2001 at 1375 Fairmont Street, NW and sought a fine in the amount of \$500.00.

On May 22, 2001, this administrative court received Respondent’s timely plea of Admit with Explanation together with a request to reduce or suspend the fines imposed. Respondent’s

¹ 29 DCMR 301.1 provides: “No person shall either directly or indirectly operate a child development facility without first having obtained a license from the Mayor authorizing that operation, except that individuals who are related to an infant or child may care for that infant or child without obtaining a license.”

submission included a letter of explanation as well as three separate notarized letters from three parents whose children Respondent was caring for on April 17, 2001.

In her letter, Respondent asserted that she was unaware she needed a license to “babysit relative’s kids” as she is related to three of the six children that were in her care that day. Respondent also mentioned, however, that the other three children in her care that day were not related to her, and that she received compensation for their care. Respondent asserted that once she was made aware of the licensing requirements, she attempted to obtain the required license, but ultimately her landlord would not permit a child development facility at her apartment. Finally, Respondent stated that she would no longer care for children without an appropriate license, and vowed never to do so again.

On May 24, 2001, this administrative court issued an order permitting the Government to reply to Respondent’s plea and request within ten (10) calendar days of the order’s service date. Because no response has been received from the Government, this matter is now ripe for adjudication.

II. Findings of Fact

1. By her plea of Admit with Explanation, Respondent has admitted to violating 29 DCMR 301.1 on April 17, 2001 at her home at 1375 Fairmont Street, NW.

2. On April 17, 2001, Respondent operated a child development facility² without a license.
3. On April 17, 2001, Respondent cared for six children in her home. Respondent was related to three of the children in her care that day: she is a great-aunt to two of the children, and a great-step-aunt to the other child.
4. Respondent's violation was unintentional. Upon learning of the licensing requirement, Respondent attempted to obtain a license, but her landlord would not permit her to provide childcare in her apartment.
5. Respondent no longer provides childcare in her apartment, and has vowed she will "never do it again, now that I know the law."
6. Respondent has accepted responsibility for her unlawful conduct.
7. There is no evidence in the record of a history of non-compliance on the part of Respondent.

III. Conclusions of Law

1. Respondent violated 29 DCMR 301.1 on April 17, 2001. A fine of \$500.00 is authorized for this violation.³ See 16 DCMR 3222.1(a).

² For purposes of 29 DCMR 301.1, a "child development facility" is a "location where a child development program is provided for infants or children, away from home, for less than twenty-four (24) hours per day for each infant or child. The facility may be known as a child development center, child development home, or infant care center..." 29 DCMR 399.1. In turn, a child development center is "a child development facility for more than five (5) children or infants, which provides a full-day (more than four (4) but less than twenty-four (24) hours per day), part-day (up to four (4) hours per day), or before and after school child development program, including programs provided during school vacations." 29 DCMR 399.1.

2. Respondent has requested a suspension or reduction of the \$500.00 fine. The evidence in this record supports a reduction, although not a suspension, of the fine. Respondent has accepted responsibility for her unlawful conduct. In addition, Respondent's violation was unintentional, and she has expressed contrition for her conduct, stating that she will "never do it again." Finally, there is no evidence in the record of a history of non-compliance on the part of Respondent. Accordingly, the fine will be reduced to \$250.00. D.C. Code §§ 6-2703(b), 6-2712(a)(2); U.S.S.G. § 3E1.1.

Therefore, upon the entire record in this case, it is hereby this _____ day of _____, 2001:

ORDERED, that Respondent is liable for a total of **TWO HUNDRED FIFTY DOLLARS (\$250.00)** and shall make payment in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715); and it is further

ORDERED, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid

³ Respondent is not exempt from requirements of 29 DCMR 301.1 by virtue of her assertion that three of the children in her care on April 17, 2001 were related to her. *Cf.* 29 DCMR 301.2. None of the three children can be considered "related" to Respondent for purposes of 29 DCMR 301.2, which specifies that the term "related" "shall include any of the following relationships by marriage, blood, or adoption: (a) Parent or step-parent; (b) Grandparent; (c) Brother, sister, step-sister, or step-brother; and (d) Uncle or aunt." *See, e.g., In re Baby Girl D.*, 257 Cal. Rptr. 1, 3-4 (Cal. Ct. App. 1989) (statutory definition of "relative" which expressly included "aunt," did not include a "great-aunt").

amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Code § 6-2713(f), the placement of a lien on real or personal property owned by Respondent pursuant to D.C. Code § 6-2713(i), and the sealing of Respondent's business premises or work sites pursuant to D.C. Code § 6-2703(b)(6).

/s/ **7/27/01**

Mark D. Poindexter
Administrative Judge